

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY *AC* D.C.  
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LUTRICIA BARNETT BUCKLEY, as  
Administratrix of the Estate  
of DENVEY BUCKLEY, for the use  
and benefit of KATRINA and  
LATRICE BUCKLEY, as Next of  
Kin and Heirs at law of DENVEY  
BUCKLEY, deceased

Plaintiff,

v.

CITY OF MEMPHIS, THE CITY OF  
MEMPHIS POLICE DIVISION,  
OFFICER PHILLIP PENNY, OFFICER  
KURTIS SCHILK, and OFFICER  
ROBERT T. TEBBETTS,  
individually and in their  
Representative Capacities as  
City of Memphis Police  
Division Officers,

Defendants.

No. 03-2874 DP

THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
W/D OF TN, MEMPHIS

ORDER GRANTING DEFENDANTS' MOTION FOR PROTECTIVE  
ORDER TO REQUEST FOR ADMISSIONS

Before the court is Defendants Phillip Penny, Kurtis Schilk, and Robert G. Tebbetts's Motion for Protective Order to Request for Admissions, filed on May 24, 2005 (dkt #148). Plaintiff has not filed a response to the motion. For the following reasons, the Defendants' motion is GRANTED.

## I. BACKGROUND

Plaintiff Lutricia Barnett Buckley ("Plaintiff") is the ex-wife and custodial parent of Katrina Buckley and Nicole Buckley, minors, the natural children and alleged sole heirs at law of the decedent, Denvey Buckley ("Buckley"). Plaintiff alleges that the defendant Memphis Police Department ("MPD") officers, including Officer Kurtis Schilk, used excessive force while seizing Buckley in an altercation that resulted in his death. She also alleges that the City has a policy or practice of failing to supervise, discipline, and train its police officers, which violated Buckley's constitutional rights.

On May 10, 2005, Defendants received Plaintiff's Request for Admissions, which included the following two requests:

Request No. 1: Lt. Raymond Hopkins was identified by the City of Memphis as the witness who could authenticate the Inspectional Services Bureau Report regarding the Denvey Buckley incident.

Request No. 2: During his deposition of January 10, 2005, Lt. Raymond Hopkins authenticated the Inspectional Services Bureau Report regarding the Denvey Buckley incident of April 19, 2003 that was marked Collective Exhibit 101 (A-C).

Defendants argue that the requests are not the type of requests contemplated under Rule 36 and are not discoverable under Rule 26 because they are duplicative of discovery already taken and not relevant.

## II. ANALYSIS


Local Rule 7.2(a)(2) requires that "The response to the

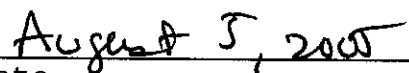
motion and its supporting memorandum . . . shall be filed within fifteen days after service of the motion and shall be accompanied by a proposed order. Failure to respond timely to any motion, other than one requesting dismissal of a claim or action, may be deemed good grounds for granting the motion." The response to Defendant's motion should have been filed by June 11, 2005. Because Plaintiff has not responded to this motion, the court GRANTS the motion on those grounds.

### III. CONCLUSION

For the reasons above, Defendants' Motion for Protective Order to Request for Admissions is GRANTED.

IT IS SO ORDERED.

  
\_\_\_\_\_  
TU M. PHAM  
United States Magistrate Judge

  
\_\_\_\_\_  
Date



## Notice of Distribution

This notice confirms a copy of the document docketed as number 183 in case 2:03-CV-02874 was distributed by fax, mail, or direct printing on August 8, 2005 to the parties listed.

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Honorable Bernice Donald  
US DISTRICT COURT